

PATENT

Atty Docket No.: 200310012-1

App. Ser. No.: 10/769,137

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Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. Claims 1 and 22-26 are amended herein. Support for the amendments may be found in original claims 9 and 10 and page 11, lines 16-25, page 12, lines 1-15, and page 19, lines 19-25. Claims 9 and 10 have been canceled herein without prejudice or disclaimer to the subject matter contained therein. Therefore, claims 1-8 and 11-26 are pending of which claims 1, and 22-25 are independent.

Claim 23 was rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter.

Claims 1-22 and 24-26 were rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter, because the computer usable medium is running the methods associated with the independent claims.

Claims 1-14 and 17-26 were rejected under 35 U.S.C. §102(e) as being anticipated by Cohen et al. (2002/0095295) ("Cohen").

These rejections are respectfully traversed for the reasons stated below.

Claims 15 and 16 Not Rejected Over Art

The Applicants note that prior art was not applied against claims 15 and 16. If the Examiner considers this subject matter allowable over the prior art, save for alleged 101 rejections, the Examiner is kindly requested to make such an indication.

In addition, the Applicants note that Cohen fails to teach or suggest the features of claims 15 and 16.

PATENT

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Claim Rejections Under 35 U.S.C. §101

Claim 23 was rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. However, the MPEP states that "when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases (See Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, Official Gazette notice of 22 November 2005, Annex IV)." Thus, according to latest guidelines promulgated by the USPTO, computer-readable medium claims are statutory.

Moreover, claim 23 includes a direct recitation of a practical application, which provides a useful, concrete, and tangible result. For instance, claim 23 recites "commanding a computer to extract demographic information...tailoring information presented to the contact using the set of combined confidence scores." This is a practical, useful, and concrete result because it allows a computer to be controlled to automatically obtain useful information, such that tailored information may be presented to the contact. Therefore, claim 23 is statutory. In addition, the Applicant's note that the reference made in the Official Action to "physical transformation" requirement is irrelevant, because the test for statutory subject matter does not contain a physical transformation requirement.

Claims 1-22 and 24-26 were rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter, because the computer usable medium is running the methods associated with the independent claims.

Initially, the Applicants note that this is not a test for statutory subject matter. The test for statutory subject matter revolves around the presence of a useful, concrete, and

PATENT

Any Docket No.: 200310012-1

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tangible result. The fact that a computer usable medium may embody a computer program for performing the claimed steps is irrelevant.

Moreover, independent claims 1, 22, 24, and 25 recite a useful, concrete, and tangible result, which involves extracting demographic information and tailoring information for a contact.

In addition, the statement made in this rejection is untrue. Nothing in the claims precludes the steps from being performed by a human operator.

Therefore, withdrawal of this rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

PATENT

Atty Docket No.: 200310012-1
App. Ser. No.: 10/769,137

Claims 1-14 and 17-26 were rejected under 35 U.S.C. §102(e) as being anticipated by Cohen. This rejection is respectfully traversed because Cohen fails to disclose the all the features of independent claims 1 and 22-25, and the claims that depend therefrom.

According to embodiments described in the Applicant's specification, substantive information is obtained from a user, *i.e.*, contact, to determine demographic information about the user. For instance, according to one possible example, demographic information may include whether or not the contact is male or female. Substantive information used to determine if the contact is male or female, in this example, is distinguished from acoustic information and is described throughout the specification. In particular, page 9, lines 16-26 and page 10, lines 1-12 describes several possible examples of substantive information. These examples, describe how a contact's answer to a question may be the substantive information used to generate a substantive confidence score. That is, the meaning behind the actual answer provided by a contact in response to question may be substantive information. For example, the contact may be asked if they are interested in cosmetics. If the answer to the question is "yes," it may be inferred that the contact is female. In contrast, acoustic information may include aspects of the contact's spoken voice, such as pitch, inflection, volume, etc. In one embodiment, acoustic information is combined with substantive information to infer demographic information about a user.

Claim 1 recites, in part:

presenting the contact with a set of multiple choice questions
associated with the demographic characteristics;

PATENT

Atty Docket No.: 200310012-1

App. Ser. No.: 10/769,137

collecting a set of responses to the multiple choice questions from the contact, wherein the set of responses includes a choice that the contact selected from the multiple choices;

comparing the contact's responses to a predefined body of multiple choice question responses associated with the set of demographic characteristics; and

assigning a set of multiple choice confidence scores to the demographic characteristics.

Cohen fails to teach, at least, the features associated with obtaining substantive information, recited above. Claim 1 refers to substantive information in the form of answers to multiple choice questions. Cohen, on the other hand, relies on "acoustic characteristics," which are automatically detected by the system (see paragraph 24). The detected characteristics are listed in paragraph 23 and include types of speech, speed of speech, and accent. Thus, Cohen does not utilize the meaning of the spoken words. Instead, Cohen relies on the characteristics of the user's voice as the user is speaking words. As such, Cohen fails to teach several features of the claims.

For example, Cohen fails to teach "presenting the contact with a set of multiple choice questions associated with the demographic characteristics." In fact, Cohen makes no mention at all of asking the user any particular questions and, therefore, cannot teach the use of multiple choice questions. This is because, as set forth above, Cohen is not concerned with the meaning behind the user's answers. Instead, Cohen only detects the speech characteristics as words are spoken.

Thus, Cohen fails to teach "collecting a set of responses to the multiple choice questions from the contact, wherein the set of responses includes a choice that the contact

PATENT**Atty Docket No.: 200310012-1
App. Ser. No.: 10/769,137**

selected from the multiple choices." Again, Cohen is not concerned with the meaning behind a user's response, but only with the acoustic characteristics of spoken words.

As such, Cohen also fails to teach "comparing the contact's responses to a predefined body of multiple choice question responses associated with the set of demographic characteristics and assigning a set of multiple choice confidence scores to the demographic characteristics."

Accordingly, Cohen fails anticipate independent claim 1, because Cohen fails to teach, at least, the features recited above. Claims 2-8 and 11-21 are allowable, at least, by virtue of their dependence on allowable claim 1.

Independent claims 22-25 recite features similar to those recited above. Therefore, claims 22-26 are allowable, at least, for the reasons discussed above. As such, withdrawal of this rejection and allowance of the claims is respectfully requested.

PATENT

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App. Ser. No.: 10/769,137**Conclusion**


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: May 22, 2007

By


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